

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

MICHAEL J. DANIELS and BARBARA §  
HIGH-DANIELS, et al. §  
§  
PLAINTIFFS §  
§  
v. §  
§  
AETC II PRIVATIZED HOUSING, LLC; §  
et al. §  
§  
DEFENDANTS §

NO. 5:19-cv-01280-RBF

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SUPPLEMENTAL BRIEF IN SUPPORT OF  
MOTION FOR PARTIAL SUMMARY JUDGMENT  
ON GOVERNMENT CONTRACTOR IMMUNITY [262]

Presently before the Court is Defendants' motion [262] seeking partial summary judgment on the basis of government contractor immunity, filed July 6, 2022. After briefing concluded on this motion, the United States Court of Appeals for the Ninth Circuit issued a decision addressing government contractor immunity under the Supremacy Clause, the theory of immunity advocated in part III of the argument in support of Defendants' motion. *Geo Group, Inc. v. Newsom*, 50 F.4th 745 (Sept. 26, 2022).

In the motion, Defendants argued, among other things, that Plaintiffs' tort claims against these government contractors must be dismissed because the Supremacy Clause prohibits state regulation (including by tort lawsuit) of the Government's housing operations at a federal military installation which have been properly delegated to a government contractor. [260, at 27-31]. In *Geo Group*, the Ninth Circuit held that the Supremacy Clause prevents the enforcement of a California statute against a government contractor retained by a federal agency. California had enacted a statute prohibiting any private entity from operating a detention facility within its

borders. Immigration and Customs Enforcement (“ICE”), however, had contracted with Geo Group to house undocumented immigrants within California’s borders. The question for the court was whether the state could regulate the federal government’s decision on how to operate its detention facilities. The court held that the California statute “would override the federal government’s decision, pursuant to discretion conferred by Congress, to use private contractors to run its immigration detention facilities” and that “California cannot exert this level of control over the federal government’s detention operations.” *Geo Group*, 54 F.4th at 750-51.

As in *Geo Group*, this lawsuit seeks to interfere, and do away, with Congressional delegation of housing management at federal military facilities to private contractors. Application of such state law to the federal contractor, the Ninth Circuit held, was improper under either a theory of preemption or under the doctrine of intergovernmental immunity. Although the application of the Supremacy Clause is even stronger in our case because we are dealing with a federal installation, *Geo Group* offers a recent example of the reasoning and authority underlying the defense as asserted by Defendants, and the protection of the federal government’s ability to protect private contractors from state regulation at facilities engaged in federal business.

The careful, thorough reasoning of the *Geo Group* decision is pertinent to the motion pending before this Court, and Defendants hope that this persuasive authority will assist the Court in deciding that motion. Of course, Defendants will be available to answer any of the Court’s questions at the hearing on November 9, 2022.

Respectfully submitted, this the 3rd day of November 2022.

/s/ Walter H. Boone

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 3rd day of November 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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